

11TH OCTOBER, 1906.

PRESENT:—

HIS EXCELLENCY THE GOVERNOR, SIR MATTHEW NATHAN, K.C.M.G.

Hon. COLONEL DARLING, R.E. (Officer Commanding the Troops).

Hon. Mr. T. SERCOMBE SMITH (Colonial Secretary).

Hon. SIR H. S. BERKELEY (Attorney-General).

Hon. Mr. A. M. THOMSON (Colonial Treasurer).

Hon. Mr. W. CHATHAM (Director of Public Works).

Hon. Mr. A. W. BREWIN (Registrar-General).

Hon. Mr. F. J. BADELEY (Captain-superintendent of Police).

Hon. Dr. HO KAI, M.B., C.M., C.M.G.

Hon. Mr. WEI YUK.

Hon. Mr. E. A. HEWETT.

Hon. Mr. W. J. GRESSON.

Mr. A. G. M. FLETCHER (Clerk of Councils).

MINUTES.

The minutes of the previous meeting were read and confirmed.

TRIBUTE TO THE LATE CAPTAIN BARNES-LAWRENCE.

HIS EXCELLENCY—Gentlemen, the constitution of this Assembly and the conditions of life among Europeans in this Colony are such that we frequently at our meetings welcome the advent of new or regret the departure of old members. But, though many leave us to go home to England, it is fortunately a rare occurrence that an active member should be taken from his work in our midst, summoned to his last resting place. Since we were last here together we have had to deplore in the death of Captain Barnes-Lawrence, the loss of a valuable member of this Council, of a capable and energetic official, and of a noble-minded, kind-hearted, modest gentleman (hear, hear) who has fallen a victim to his care for the interests of the Colony—especially those of the shipping community—which were so close to his heart. I know I have every member of the Council with me in expressing deep sympathy with the bereaved wife and family.

APPOINTMENT OF COMMITTEES.

HIS EXCELLENCY—I appoint the following Standing Committees of Council:—

Finance Committee: The Colonial Secretary as Chairman and every member of Council.

Law Committee: The Hon. Attorney-general, Chairman; Hon. Captain Superintendent of Police, Hon. Dr. Ho Kai, Hon. Mr. Wei Yuk and Hon. Mr. H. E.

Pollock as members.

Public Works Committee: The Hon. Director of Public Works, Chairman; Hon. Colonial Treasurer and the Hon. Messrs. Osborne, Hewett and Gresson as members.

FINANCIAL.

The COLONIAL SECRETARY, by command of His Excellency the Governor, laid on the table Financial Minutes Nos. 73 to 77 and moved that they be referred to the Finance Committee.

The COLONIAL TREASURER seconded.

HIS EXCELLENCY—Financial Minute No. 77 is a vote of \$100 to the Society of St. Vincent de Paul necessitated by the fact that the Society did not claim the allowance last year, but has asked that a double one may be paid to them this. The payment of two allowances to a charitable society in one year, is inconvenient, and I am taking steps to prevent its recurrence in future. Financial Minute No. 73 is for \$1,200 for repair of typhoon damages to the gardens in the care of the Botanical and Forestry Department. It includes items of \$300 for labour in clearing away debris; of \$270 for repairs to buildings; and of \$250 for raising street trees. With that last item 94 trees have been satisfactorily re-erected. Of course this vote represents a very small proportion of the damage done to the Public Gardens. Most of that damage is only repairable by time, and the Superintendent of the Department estimates that it will take from ten to fifteen years before the gardens will look again as they used to look before the typhoon. Financial Minute No. 75 is for \$5,000 for repair of damages done by the typhoon to the boats of the Police Department. It provides the money required for raising the one of the three launches that was sunk, for refloating one that went aground, also for raising one pinnacle and for the hire of boats for police work on the days immediately subsequent to the typhoon. Financial Minute No. 76 for \$5,846 is for repairs to damages incurred by the boats in charge of the Medical Department. Of this, repairs to the Health Officer of the Port's steam launch *Sybil* amount to \$973, and to the Hospital hulk *Hygeia* to \$4,873. The *Hygeia* had her roof blown away and suffered sundry other damages. Financial Minute No. 74 for \$49,000 is for repair of damages incurred in the typhoon of September 18th by public works and buildings. Council will remember that at their last meeting they voted \$20,000 for this purpose. The aggregate, \$69,000 is made up as follows:—For buildings, \$15,000; for piers and sea walls, \$14,000; for drainage works, \$4,500, for water works, \$3,000; for telegraphs and telephones, \$7,500; roads \$24,000; floating plant \$1,000,

making altogether \$69,000. These amounts for repairs are those that will be spent in making good damage done on September 18th. Unfortunately the subsequent typhoon of the 29th inflicted further injuries on public works, and it will be necessary later to ask for a further vote on account of those injuries. As far as I can see, the cost of making good damages to public works will not fall far short of \$100,000. In addition to that, the cost of making good damage to the boats and other property in charge of various departments may together with special expenditure incurred by them for work done at the time of the typhoon amount to nearly \$25,000, so I do not think I am much over-estimating the total loss to the Colony, represented by its Government, when I reckon it at \$125,000. This is just ten times the amount we put into the estimates for 1907 for making good typhoon and storm damages, and that amount was based on the annual average over some years past. Still it must be recognised that \$125,000 damage to Government property bears a very small proportion to the injuries done to private property in the Colony by the typhoons of last month.

The motion was carried.

#### THE LAW OF EVIDENCE.

The ATTORNEY -GENERAL—I rise, Sir, to propose that the Bill to amend the law of Criminal Evidence be now read a second time. The object of this measure is to accord to a few accused persons in this Colony privileges which have been accorded in England since 1898. The Bill provides that henceforth every accused person, and the wife or husband as the case may be of such accused person, shall be a competent witness but not compellable—a competent witness at every stage and at any part of the proceedings in a criminal charge. The objection that a person accused of a crime, while having in his own mind obviously the best knowledge of the facts alleged against him, has been prevented from stating on oath to the jury who have to try him, his knowledge of those facts, will be removed, and all who have experience of criminal courts will be aware that, as a result, many a guilty man who now escapes on account of the jury giving him the advantage of the doubt— whether or not he is guilty—because they are unable to hear him in his own defence, will no longer have that loophole of escape. There can be no doubt that in many cases if a person had been allowed to make his statement on oath, and had then been cross-examined by prosecuting counsel, he would not have been able to exculpate himself. For many years judges have allowed prisoners to make statements. There is no authority in law for that, but prisoners have been in the habit of making statements. The Bill we have now before us permits a prisoner to give evidence on his own behalf. It does not compel him to go into the box, but if he does he is liable to be cross-examined. If he does not go into

the box the Bill provides that counsel for the prosecution shall not comment adversely on that fact. It is a privilege he may take or not at his option. At the same time it is laid down that a judge has power to draw the attention of a jury to the fact that a prisoner, though he had the opportunity, did not go into the box, and the jury can then draw such deduction from the fact as they think fit. There is a general principle running through this Ordinance that the wife or husband of an accused person shall be competent to give evidence for or against the accused. They shall not be compelled to do so except in certain cases, and those are cases which come under the law for the protection of women and children, and generally those cases which fall under the Married Women's Property Act relating to the question of criminal dealings by either husband or wife with the property of the other. In such cases the husband or wife is not only a competent, but a compellable witness. I believe, Sir, this bill will result in the advancement of justice in this Colony.

The COLONIAL SECRETARY seconded the motion, and the Bill was read a second time.

Council then went into committee on the bill.

On resuming, the ATTORNEY -GENERAL reported to the Council that the Bill had passed through committee without amendment, and moved that it be read a third time, and that the title be deemed sufficient for the purpose thereof.

The COLONIAL SECRETARY seconded.

The Bill was then read a third time, passed, and became law.

#### THE MERCHANT SHIPPING ORDINANCE.

The ATTORNEY -GENERAL—I move, Sir, that the next item, the Bill entitled "An Ordinance further to amend the Merchant Shipping Ordinance 1899, and for other purposes," be postponed for further consideration.

The COLONIAL SECRETARY seconded, and the motion was agreed to.

#### THE PREPARED OPIUM ORDINANCE.

The ATTORNEY -GENERAL—I move, Sir, that the Bill entitled "An Ordinance to amend the Prepared Opium Ordinance, 1891," be read a third time, and that the title be deemed sufficient for the purpose thereof.

The COLONIAL SECRETARY seconded, and the motion was agreed to.

The Bill was then read a third time, passed and became law.

His EXCELLENCY—Council stands adjourned until after the meeting of the Finance Committee.

FINANCE COMMITTEE.

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A meeting of the Finance Committee was then held, the Colonial Secretary presiding.

The following votes were passed:—

TYPHOON DAMAGES.

The GOVERNOR recommended the Council to vote a sum of one thousand two hundred dollars (\$1,200) in aid of the vote Botanical and Forestry Department—Other Charges, Repairs of Typhoon Damages.

The GOVERNOR recommended the Council to vote a sum of forty-nine thousand dollars (\$49,000) in aid of the vote Public Works Extraordinary, Typhoon Damages.

The GOVERNOR recommended the Council to vote a sum of five thousand dollars (\$5,000) in aid of the vote Police and Prison Departments, A.—Police—Other

Charges, Repairs of Typhoon Damages.

CHARITABLE ALLOWANCES.

The GOVERNOR recommended the Council to vote a sum of one hundred dollars (\$100) in aid of the vote Charitable Allowances, Society of St. Vincent de Paul.

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On Council resuming,

The COLONIAL SECRETARY reported that at the meeting of the Finance Committee just held Financial Minutes Nos. 73 to 77 had been approved, and he moved their adoption.

The COLONIAL TREASURER seconded, and the motion was agreed to.

His EXCELLENCY—Council stands adjourned till Thursday, 25th October, at 2.50 p.m.

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